

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

VS.

AFGHAN TRADE TRANSPORTATION

1:10-CR-201

ALEXANDRIA, VIRGINIA
JUNE 25, 2010

UNITED STATES OF AMERICA

VS.

AFGHAN INTERNATIONAL TRUCKING

1:10-CR-202

ALEXANDRIA, VIRGINIA
JUNE 25, 2010

TRANSCRIPT OF PLEA AND SENTENCING
BEFORE THE HONORABLE JAMES C. CACHERIS
UNITED STATES DISTRICT JUDGE

Proceedings reported by stenotype, transcript produced by
Julie A. Goodwin.

A P P E A R A N C E S

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1 (JUNE 25, 2010, 9:03 A.M., OPEN COURT.)

2 THE COURT: I'll take the Afghan Trade Transportation,
3 Afghan International Trucking Association.

4 This matter comes on for a plea.

5 MR. LINICK: Good morning, Your Honor. Steve Linick
6 for the United States. I'm accompanied by Liam Brennan, trial
7 attorney in Fraud Section who is going to be handling this
8 matter.

9 THE COURT: Okay.

10 MR. BROWNLEE: Good morning, Your Honor. I'm John
11 Brownlee, and I represent both companies this morning.

12 THE COURT: Okay. Do you have a representative for
13 both companies or one representative for each?

14 MR. BROWNLEE: Your Honor, these are Afghan companies.
15 They are -- had signed board resolutions which authorize me as
16 their counsel to stand as a representative here today and enter
17 these --

18 THE COURT: Okay. Do you have a copy of the corporate
19 resolution?

20 MR. BROWNLEE: Yes, sir.

21 THE COURT: Okay. You want to pass that in.

22 MR. BRENNAN: Your Honor, this morning we submitted
23 signed plea documents. And there was -- the corporate
24 resolution was attached to the back of the plea agreement --

25 THE COURT: All right. Let me just look. I just got

1 them this morning --

2 MR. BRENNAN: -- for each company.

3 THE COURT: -- just now.

4 THE REPORTER: May I get your name, please?

5 MR. BRENNAN: Yes, Liam Brennan, B-R-E-N-N-A-N.

6 THE COURT: Okay. I see the corporate resolution.

7 Go ahead. Okay. Anything else?

8 I've read the other matters that you submitted in
9 chambers, and I have no questions about them at this time.

10 MR. BRENNAN: Thank you, Your Honor.

11 THE COURT: Mr. Brownlee, I'll have you sworn as the
12 corporate representative at this time for both Afghan Trade
13 Transportation and Afghan International Trucking.

14 MR. BROWNLEE: Yes, Your Honor.

15 (THE OATH WAS ADMINISTERED.)

16 THE COURT: Okay. Mr. Brownlee, the Court understands
17 that your clients, Afghan International Trucking and Afghan
18 Trade Transportation, want to plead guilty in this case. Is
19 that correct?

20 MR. BROWNLEE: Yes, Your Honor.

21 THE COURT: Before accepting the guilty plea of the
22 corporations, there are a number of questions the Court has to
23 ask you in order to ensure it's a valid plea. So anytime you
24 don't understand a question, please tell me, and I'll try to
25 rephrase it so that you can understand it.

1 MR. BROWNLEE: Yes, Your Honor.

2 THE COURT: Okay?

3 And when I use the term "you," I mean both Afghan
4 International Trucking and Afghan Trade Transportation --

5 MR. BROWNLEE: Yes, Your Honor.

6 THE COURT: -- corporations. Okay?

7 Obviously you're able to speak, read, write and
8 understand the English language?

9 MR. BROWNLEE: Yes, Your Honor.

10 THE COURT: Have you taken any drugs, medicine, pills,
11 or alcoholic beverages in the past 24 hours?

12 MR. BROWNLEE: No, Your Honor.

13 THE COURT: And the corporations understand they have
14 the right to have an attorney represent them. Is that correct?

15 MR. BROWNLEE: Yes, Your Honor.

16 THE COURT: And you feel that the corporations have
17 had enough time to discuss the case with you and their
18 attorneys?

19 MR. BROWNLEE: Yes, Your Honor.

20 THE COURT: Have they -- have you discussed with them
21 the nature and elements of the offense in order to -- for the
22 Government to prove their case?

23 MR. BROWNLEE: Yes, Your Honor.

24 THE COURT: Okay. Do the corporations understand that
25 the -- by proceeding in this criminal information, that a grand

1 jury is comprised of 16 to 23 persons, 12 of whom must concur
2 in finding a probable cause that a crime was committed and a
3 probable cause that the corporations committed it?

4 MR. BROWNLEE: Yes, Your Honor.

5 THE COURT: And they understand the grand jury may or
6 may not indict them?

7 MR. BROWNLEE: Yes, Your Honor.

8 THE COURT: And they've signed this waiver of
9 indictment, is that correct, you on their behalf --

10 MR. BROWNLEE: That's correct, Your Honor.

11 THE COURT: -- to the criminal information? Okay.

12 The information now on Afghan International
13 Trucking says:

14 Between October 2004 and August 2008, the
15 defendant, Afghan International Trucking, directly and
16 indirectly, knowingly and corruptly offered monetary bribe
17 payment to U.S. officials in order to influence the performance
18 of an official act and to aid in fraud against the United
19 States, to wit: Defendant paid approximately \$190,000 in the
20 Eastern District of Virginia and elsewhere to military
21 officials at the Bagram, B-A-G-R-A-M, Airfield in Afghanistan
22 in exchange for fraudulently awarding the defendant government
23 contract work and payment for work the defendant never
24 performed.

25 In violation of 18, U.S. Code, Section 201(b)(2)(A)

1 and 201(b)(2)(B).

2 The corporations under -- the Afghan International
3 Trucking understands that?

4 MR. BROWNLEE: It does, Your Honor. And it pleads
5 guilty to that count.

6 THE COURT: Afghan Trade Corporation. The information
7 charges:

8 Between May 2008 and August 2008, defendant, Afghan
9 Trade Transportation, directly and indirectly, knowingly and
10 corruptly offered monetary bribe payment to U.S. officials in
11 order to influence the performance of an official act and to
12 aid in fraud against the United States, to wit: The Defendant
13 paid or offered approximately \$45,000 in the Eastern District
14 of Virginia and elsewhere to a military official at the Bagram
15 Airfield in Afghanistan in exchange for fraudulently awarding
16 the defendant government contract work.

17 In violation of 18, U.S. Code, Section 201(b)(2)(A)
18 and 201(b)(2)(B).

19 The corporation understands that charge against it?

20 MR. BROWNLEE: The corporation understands the charge
21 and pleads guilty to that count, Your Honor.

22 THE COURT: Okay.

23 As to International Trucking corporation, the
24 statutory -- let me just get to the statutory maximum in this
25 case.

1 As to both corporations, the maximum penalties
2 are a fine of \$500,000 or twice the gross gain or gross loss
3 resulting from the offense, whichever is greater. 18 U.S.
4 Code, Section 3561(c)(1) and (4). A mandatory special
5 assessment of \$400. 18 U.S. Code 3101.

6 MR. BROWNLEE: Yes, Your Honor.

7 THE COURT: The corporations understand that?

8 MR. BROWNLEE: Yes, sir.

9 THE COURT: How does Afghan International Trucking
10 plead?

11 MR. BROWNLEE: The company pleads guilty, Your Honor.

12 THE COURT: And how does Afghan Trade Transportation
13 plead?

14 MR. BROWNLEE: The company pleads guilty, Your Honor.

15 THE COURT: Okay. The companies understand under the
16 Constitution and laws of the United States they are entitled to
17 plead not guilty and have a jury trial on the charges contained
18 in this criminal information?

19 MR. BROWNLEE: Yes, Your Honor.

20 THE COURT: They understand at the trial they are
21 presumed to be innocent, and the Government would be required
22 to prove them guilty beyond a reasonable doubt before they can
23 be found guilty? They would not have to prove that they were
24 innocent.

25 MR. BROWNLEE: Yes, Your Honor.

1 THE COURT: They understand during the course of the
2 trial witnesses would come forward for the Government, testify
3 in their presence, and that the lawyers for the company could
4 cross-examine the witnesses for the Government, object to
5 evidence offered by the Government, and offer their own
6 evidence?

7 MR. BROWNLEE: Yes, Your Honor.

8 THE COURT: And they understand that they may have a
9 limited Fifth Amendment right to testify or not to testify in
10 this case?

11 MR. BROWNLEE: Yes, Your Honor.

12 THE COURT: Okay. But by pleading guilty, they can be
13 asked about their participation in this offense?

14 MR. BROWNLEE: Yes, Your Honor.

15 THE COURT: The corporations understand if I accept
16 the plea, they'll waive their right to a trial and the other
17 rights I've just discussed with them? There's not going to be
18 any trial. The Court will enter judgment of guilty and then
19 sentence them today.

20 MR. BROWNLEE: Yes, Your Honor.

21 THE COURT: Having discussed these rights with them,
22 they still wish to plead guilty?

23 MR. BROWNLEE: They do, Your Honor.

24 THE COURT: Anyone threaten or forced them to plead
25 guilty?

1 MR. BROWNLEE: No, Your Honor.

2 THE COURT: The plea agreements in this case, is that
3 the full and complete understanding that they have with the
4 Government?

5 MR. BROWNLEE: Yes, Your Honor.

6 THE COURT: Is there any additions or corrections to
7 the plea agreement?

8 MR. BROWNLEE: No, Your Honor.

9 THE COURT: Any other promises made to them other than
10 the plea agreement?

11 MR. BROWNLEE: No, Your Honor.

12 THE COURT: Okay.

13 And they understand what the statutory maximums are
14 in this case?

15 MR. BROWNLEE: The companies understand, Your Honor.

16 THE COURT: Yeah.

17 Okay. I'll ask you as to the Statement of Facts on
18 the Afghan International Trucking Corporation. Is that what
19 you understand the facts are in this case?

20 MR. BROWNLEE: Yes, Your Honor. The company has
21 reviewed the facts and acknowledges the facts contained herein,
22 and also recognizes that had this matter proceeded to trial the
23 United States would have established this beyond a reasonable
24 doubt.

25 THE COURT: Okay.

1 Is there any additions or corrections?

2 MR. BROWNLEE: No, Your Honor.

3 THE COURT: Okay. They agree they are in fact guilty?

4 MR. BROWNLEE: The companies are guilty, Your Honor.

5 THE COURT: Yeah.

6 Okay. Similarly as to the Afghan Trade
7 Transportation, they agree with the Statement of Facts?

8 MR. BROWNLEE: That's correct, Your Honor. The
9 companies have reviewed the Statement of Facts, concede the
10 truth therein, and acknowledge that had this matter proceeded
11 to trial, the United States would have established each and
12 every fact beyond a reasonable doubt.

13 THE COURT: And any additions or corrections to their
14 Statements of Facts?

15 MR. BROWNLEE: No, Your Honor.

16 THE COURT: Okay. And they agree they are in fact
17 guilty?

18 MR. BROWNLEE: Yes, Your Honor, the companies are
19 guilty.

20 THE COURT: And both companies still wish to plead
21 guilty?

22 MR. BROWNLEE: Yes, Your Honor.

23 THE COURT: And they're pleading guilty freely and
24 voluntarily?

25 MR. BROWNLEE: Yes, Your Honor.

1 THE COURT: Is there anything you would like me to
2 explain to you any further?

3 MR. BROWNLEE: No, Your Honor.

4 THE COURT: Okay. I find the defendant corporations
5 are competent to understand the proceedings of the plea.
6 Understand their Constitutional rights. Understand the nature
7 of the charges, the consequences of the plea.

8 The plea is freely and voluntarily made. There is
9 a factual basis for a plea. I'll find the defendants guilty at
10 this time --

11 MR. BROWNLEE: Thank you.

12 THE COURT: -- and I'll go now to the recommended
13 sentencing in this case.

14 Okay. Government have any position --

15 MR. BROWNLEE: Thank you, Your Honor.

16 THE COURT: -- you want to state, Mr. Brennan?

17 MR. BRENNAN: Good morning, Your Honor.

18 The recommended sentence for Afghan International
19 Trucking is \$3,360,000.

20 THE COURT: Okay.

21 MR. BRENNAN: Based on the Statement of Facts, that
22 represents the maximum recommended sentence possible.

23 THE COURT: All right. As to Afghan Trade?

24 MR. BRENNAN: And as to Afghan Trade Transportation,
25 the recommended sentence is \$1,040,000.

1 THE COURT: Okay.

2 MR. BRENNAN: Based on the Statement of Facts in the
3 case against Afghan Trade Transportation, that also represents
4 the maximum sentence possible.

5 THE COURT: Mr. Brownlee, any comment you want to have
6 on either one of these?

7 MR. BROWNLEE: No, Your Honor. The companies are
8 prepared to pay those fines.

9 THE COURT: Okay. Does the company wish to say
10 anything before sentence is pronounced upon them?

11 MR. BROWNLEE: No, Your Honor. Thank you.

12 THE COURT: Okay. As to Afghan International
13 Trucking, the Court is going to impose a fine of \$3,360, plus a
14 \$400 special assessment.

15 I'm sorry, three million. I'm sorry. \$3,360,000.

16 As to the Afghan Trade Transportation, the Court is
17 going to impose a fine of \$1,040,000. That's 1,040,000, and a
18 \$400 special assessment.

19 The Court finds this is reasonable under 18,
20 U.S.C., 3553(a). Sufficient deterrence, punishment, reflects
21 the nature and circumstances of the case, history and
22 characteristics of the defendant. And accordingly, the Court
23 will impose those fines.

24 Anything further?

25 MR. BRENNAN: Not from the Government, Your Honor.

1 THE COURT: Okay.

2 MR. BRENNAN: Thank you very much.

3 THE COURT: Mr. Brownlee?

4 MR. BROWNLEE: Nothing from the defendant.

5 THE COURT: The companies are prepared to make the
6 payments?

7 MR. BROWNLEE: Yes, Your Honor. We had the checks
8 this morning. Do we present them to the clerk in court or in
9 the clerk's office?

10 THE COURT: You can take them to the clerk's office.
11 That would be fine, sir.

12 MR. BROWNLEE: Yes, Your Honor.

13 THE COURT: Thank you.

14 (PROCEEDINGS CONCLUDED AT 9:17 A.M.)

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1 UNITED STATES DISTRICT COURT)

2 EASTERN DISTRICT OF VIRGINIA)

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4 I, JULIE A. GOODWIN, Official Court Reporter for
5 the United States District Court, Eastern District of Virginia,
6 do hereby certify that the foregoing is a correct transcript
7 from the record of proceedings in the above matter, to the best
8 of my ability.

9 I further certify that I am neither counsel for,
10 related to, nor employed by any of the parties to the action in
11 which this proceeding was taken, and further that I am not
12 financially nor otherwise interested in the outcome of the
13 action.

14 Certified to by me this 7TH day of JULY, 2011.

15

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/s/

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